



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

WFC/143981

PRELIMINARY RECITALS

Pursuant to a petition filed September 20, 2012, under Wis. Stats. 49.45(5), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on November 06, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly denied petitioner's request for burial assistance benefits under the Medical Assistance program.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Appearing for petitioner

[REDACTED] (deceased)
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Pat Martin, Income Maintenance Burial Assistance
Karla Sajimbola, supervisor
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Michael A. Greene
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) was a resident of Milwaukee County when she passed away.

2. At the time of her death on July 22, 2012, petitioner was receiving limited Medical Assistance under the Family Planning Waiver.
3. On July 27, 2012, the Max A. Sass & Sons Funeral Home extended cemetery and burial services on behalf of petitioner and sought reimbursement from the agency. The funeral home's request was denied on August 24, 2012.

DISCUSSION

Wisconsin's Medical Assistance provides burial assistance to members receiving full Medical Assistance coverage under Title XIX of the Social Security Act, *see generally Wisconsin Funeral and Cemetery Aids Program Manual Release 11-01*, (March 30, 2011). Burial assistance is specifically unavailable to individuals who, like petitioner, qualified for services only under the Family Planning Waiver, *Funeral and Cemetery Aids Manual*, ¶1.2.4.

The funeral home argues that it should be reimbursed for its expenses because it received information from a county worker to the effect that petitioner was covered for burial assistance. Application of the equitable doctrines of detrimental reliance and equitable estoppel would require this administrative law judge to exercise authority that he does not have. This agency has also held that detrimental reliance cannot be asserted against a governmental agency, *see* DHA Decision CCB-66/82813 (June 4, 2007).

CONCLUSIONS OF LAW

Funeral home may not recover burial assistance benefits for an ineligible individual by asserting the legal doctrine of promissory estoppel and detrimental reliance.

THEREFORE, it is

ORDERED

That the petition for review be and hereby is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

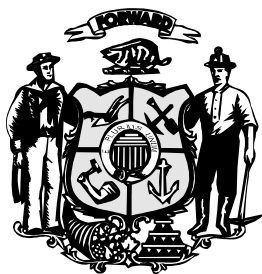
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 19th day of December, 2012

\sMichael A. Greene
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 19, 2012.

Milwaukee Enrollment Services

Wisconsin funeral and Cemetery Aids Program - DHS